

EXHIBIT 82

1 THE HONORABLE THOMAS S. ZILLY
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 HUNTERS CAPITAL, LLC, et al.,

11 Case No. 20-cv-00983

12 Plaintiffs,

13 PLAINTIFFS ANSWERS AND
14 RESPONSES TO DEFENDANT CITY OF
15 SEATTLE'S SECOND DISCOVERY
16 REQUESTS AND PROPOSED
17 REVISIONS TO FIRST DISCOVERY
18 REQUESTS

v.

CITY OF SEATTLE,

Defendant.

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiffs 12th & Pike Associates LLC, Argento LLC, Bergman's Lock and Key Services LLC, Hunters Capital LLC, Madrona Real Estate Investors IV, LLC, Madrona Real Estate Investors VI, LLC, Madrona Real Estate Services, LLC, Northwest Liquor and Wine LLC, Olive St. Apartments LLC, Onyx Homeowners Association, Matthew Ploszaj, Rancho Bravo, Inc., Redside Partners, The Richmark Company d/b/a Richmark Label, Shuffle LLC d/b/a Cure Cocktail, SRJ Enterprises dba Car Tender, Sway and Cake LLC, and Wade Biller ("Plaintiffs") hereby respond and object to Defendant City of Seattle's ("Defendant" or the "City") Second Discovery Requests. No admissions of any nature whatsoever are implied or should be inferred from the answers, responses, and objections set forth below. Plaintiffs have answered these requests based on their current knowledge and understanding with respect to the matters addressed. Discovery in this

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PLAINTIFFS' ANSWERS AND RESPONSES TO
DEFENDANT CITY OF SEATTLE'S SECOND
DISCOVERY REQUESTS

Case No. 20-cv-00983 - 1

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INTERROGATORIES

INTERROGATORY NO. 3 [AMENDED]:

As to the matters described in your complaint, please identify each statute or ordinance that the City failed to abide.

ANSWER:

Plaintiffs object that this is a contention interrogatory, asked at the commencement of discovery. Plaintiffs further object that the distinction between “failed to abide” and “was not enforced” as used in amended Interrogatory No. 4 is vague and ambiguous. Plaintiffs also object that this interrogatory is not clearly delineated as to time or space. However, Plaintiffs have agreed to answer this question at this stage of this case, in the interests of compromise, to the best of their ability. Plaintiffs reserve the right to amend or supplement this answer as discovery progresses.

Plaintiffs currently contend that the City was affirmatively required to act, but failed to act as required between at least June 8, 2020 and July 1, 2020, under at least the following statutes or ordinances:

1. Seattle Municipal Code (“SMC”) 10.02, Civil Emergencies
 2. SMC 11.25, Parade Permits
 3. SMC 15.52, Crowd Control Events

INTERROGATORY NO. 4 [AMENDED]:

As to the matters described in your complaint, please identify each statute or ordinance that you contend was not enforced by the City.

ANSWER:

Plaintiffs object that this is a contention interrogatory, asked at the commencement of discovery. Plaintiffs further object that the distinction between “was not enforced” and “failed to abide” as used in amended Interrogatory No. 3 is vague and ambiguous. Plaintiffs also object that

1 this interrogatory is not clearly delineated as to time or space. However, Plaintiffs have agreed to
 2 answer this question at this stage of this case, in the interests of compromise, to the best of their
 3 ability. Plaintiffs reserve the right to amend or supplement this answer as discovery progresses.

4 Plaintiffs respond that between June 8, 2020, and at least July 1, 2020, the City did not
 5 enforce *any* laws within the area in question, and for many months thereafter continued to refuse
 6 to enforce certain laws in the area, including especially in Cal Anderson Park. Plaintiffs note that
 7 while the list of ordinances and statutes the City failed to enforce is nearly unlimited, and possibly
 8 involves the entire criminal code of both the City and the State of Washington, the ordinances and
 9 statutes the City failed to enforce included at least the following:

- 10 1. SMC 10.02, Civil Emergencies
- 11 2. SMC 10.07, Graffiti Nuisance Code
- 12 3. SMC 11.25, Parade Permits
- 13 4. SMC 12A subsections:
 - 14 a. .06.025 Fighting
 - 15 b. .06.030 Menacing
 - 16 c. .08.020 Property Destruction
 - 17 d. .08.030 Reckless Burning
 - 18 e. .08.040 Criminal Trespass
 - 19 f. .08.060 Theft
 - 20 g. .12.010 Disorderly Conduct
 - 21 h. .12.015 Pedestrian Interference
 - 22 i. .14.071 Aiming or Discharging a Firearm
 - 23 j. .14.075 Unlawful Use of Weapons to Intimidate Another
 - 24 k. .14.083 Weapons in Public Places
 - 25 l. .14.140 Unlawful Carrying of a Pistol

- m. .16.010 Obstructing a Public Officer
- MC 15.02, Street Ordinance / General Provisions
- MC 15.04, Use and Occupation Permits
- MC 15.52, Crowd Control Events
- MC 15.90, Enforcement
- MC 18.12, Parks Code
- MC 25.08, Noise Control
- vised Code of Washington (“RCW”) 7.48.140, Public Nu
- CW 9A.46.020, Harassment
- CW 9A.48.020, .030, Arson
- CW 9A.48.040 to .060, Reckless Burning
- CW 9A.48.070 to .100, Malicious Mischief
- CW Chapter 9A.52, Burglary and Trespass
- CW 9A.84.010, Criminal Mischief
- CW 9A.84.030, Disorderly Conduct
- CW 9A.84.020, Failure to Disperse
- CW 9A.76.020, Obstructing a Law Enforcement Officer
- CW 46.61.250, Pedestrians on Roadway

INTERROGATORY NO. 5 [PROPOSED AMENDED]:

As to the matters described in your complaint, please identify any ways in which the City misled you into believing a danger had been removed or deprived you of the possibility of help from other sources.

ANSWER:

Plaintiffs objected to the original Interrogatory No. 5 as a contention interrogatory and did

1 questions of each Plaintiff at depositions which are presently underway.

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3 **INTERROGATORY NO. 7 [PROPOSED AMENDED]:**

4 As to the matters described in your complaint, please identify every way in which the City
5 acted in a proprietary capacity rather than a governmental capacity, meaning every way in which
6 the City engaged in business-like activities that are normally performed by private enterprise.

7 **ANSWER:**

8 Plaintiffs objected to the original Interrogatory No. 7 as a contention interrogatory and did
9 not agree to answer this amended interrogatory. As Plaintiffs have previously explained, this
10 remains an impermissible contention interrogatory at an early stage of the case, despite the
11 changing of the language, and it remains vague and as to “proprietary capacity” and governmental
12 capacity,” as well as “business-like activities that are normally performed by private enterprise.”
13 As Plaintiffs have also indicated, this interrogatory appears to seek answers relevant to a legal
14 theory, about which the City has declined to provide any guidance or law that might assist Plaintiffs
15 in understanding what the City actually wants to know. As Plaintiffs have now stated on multiple
16 occasions, Plaintiffs are willing to consider a revised, clarified, and narrowed question.

17

18 **INTERROGATORY NO. 9:**

19 Please identify, by address, the specific location of every property or business for which
20 you claim damages in this action. Please specify the amount of your damage claim that is
21 associated with each specific location identified.

22 **RESPONSE TO INTERROGATORY NO. 9:**

23 Plaintiffs object that a full and complete answer to this interrogatory requires complete
24 discovery, as well as specialized and expert testimony and analysis, which is not required to be
25 disclosed under the current case schedule for several months. Plaintiffs further object that this

1 interrogatory is a contention interrogatory asked well in advance of the close of discovery.
2 However, Plaintiffs will give – and in most instances have already given - preliminary estimates
3 of their damages. Plaintiffs note that the damages discussed below are for out-of-pocket expenses
4 and lost income. Plaintiffs have not separately stated amounts for damages due to nuisance,
5 constitutional rights, or other amounts that are subject to valuation by finders of fact. Plaintiffs
6 expressly reserve the right to revise these estimates based on discovery, subsequent events, and
7 expert testimony.

8 **ANSWER AS TO ARGENTO LLC:**

9 Café Argento is located at 1125 E Olive Street. Argento LLC's preliminary estimate of
10 damages due to the events in this case is \$68,950.

11

12 **ANSWER AS TO BERGMAN'S LOCK AND KEY SERVICES LLC:**

13 Bergman's Lock and Key is located at 1714 12th Avenue. A preliminary estimate of
14 damages has been produced at CHOP 0008655. The City has also deposed Bergman's about that
15 estimate.

16

17 **ANSWER AS TO HUNTERS CAPITAL LLC:**

18 The following property locations are at issue in this suit:

19 The Ballou Wright Building 1517 12th Avenue
20 The Broadway Building 1620 Broadway
21 The Pike Building 1000 E. Pike Street
22 The 900 Pine Building 900 E. Pine Street
23 The Dunn Motors Building 501 E. Pike Street
24 The Greenus Building 500 E. Pike Street
25 The Colman Building 401 E. Pine Street

A preliminary estimate for each of these properties has been produced at CHOP 0007739.

1 **ANSWER AS TO MADRONA REAL ESTATE INVESTORS IV, LLC, MADRONA REAL**
2 **ESTATE INVESTORS VI, LLC, MADRONA REAL ESTATE SERVICES, LLC, AND**
3 **12TH & PIKE ASSOCIATES:**

4 The following property locations are at issue in this suit:

5 12th & Pike Associates, LLC 1122 E Pike Street
6 Madrona Real Estate Investors VI, LLC 1310 E Pike Street
7 Madrona Real Estate Investors, IV, LLC 1316 E Pike Street
8 Madrona Real Estate Services, LLC 1320 E Pike Street

9 A preliminary estimate of damages for each is as follows:

10 12th & Pike Associates, LLC \$166,426.08
11 Madrona Real Estate Investors VI, LLC \$13,852.87
12 Madrona Real Estate Investors, IV, LLC \$17,428.14
13 Madrona Real Estate Services, LLC \$12,109.23

14 Plaintiffs have produced a spreadsheet identified by each entity regarding these
15 calculations at CHOP 0008704 to CHOP 0008706; CHOP 0008736 to CHOP 0008738;
16 CHOP 0008760 to CHOP 0008762; and CHOP 0008786 to CHOP 0008788.

17 **ANSWER AS TO NORTHWEST LIQUOR AND WINE LLC:**

18 Northwest Liquor and Wine is located at 1605 12th Avenue. Northwest Liquor and Wine
19 preliminarily estimates its damages as \$357,382.

20 **ANSWER AS TO OLIVE ST APARTMENTS LLC:**

21 The Olive Street Apartments are located at 1111 East Olive Street. Damage information
22 has been produced at CHOP 0004900 and CHOP 0008227.

23 **ANSWER AS TO ONYX HOMEOWNERS ASSOCIATION:**

24 The Onyx Condominiums are located at 1125 E. Olive Street. Onyx Homeowners
25 Association preliminarily estimates its damages as \$9,505.31.

1 **ANSWER AS TO MATTHEW PLOSZAJ:**

2 Matthew Ploszaj lives in an apartment at 1210 E. Pine Street. He preliminarily estimates
3 his damages are \$50,000.

5 **ANSWER AS TO RANCHO BRAVO, INC.:**

6 The Rancho Bravo Tacos location at issue in this lawsuit is located at 1001 E. Pine Street.
7 A preliminary estimate of damages has been produced as CHOP 0004976.

9 **ANSWER AS TO REDSIDE PARTNERS:**

10 Redside Partners manages the Oddfellows building at 915 E. Pine Street, as well as
11 buildings at 1715 12th Ave. and 1323 E. Pine Street. Redside preliminarily estimates its damages
12 as \$10,000.

14 **ANSWER AS TO THE RICHMARK COMPANY DBA RICHMARK LABEL:**

15 Richmark is located at 1110 E. Pine Street. It also owns the location occupied by Northwest
16 Liquor and Wine. A preliminary estimate of damages has been produced at CHOP 0006423.

18 **ANSWER AS TO SHUFFLE LLC DBA CURE COCKTAIL:**

19 The Cure Cocktail location for which damages are sought in this suit was located at 1641
20 Nagle Place. Cure Cocktail preliminarily estimates that its damages for that location are \$397,443.
21 A spreadsheet detailing these amounts has been produced at CHOP 0008835.

23 **ANSWER AS TO SRJ ENTEPRISES DBA CAR TENDER:**

24 Car Tender was formerly located at 1716 12th Avenue. A preliminary estimate of damages
25 for that location has been produced at CHOP 0005389. Plaintiffs anticipate providing an updated

1 | estimate prior to deposition.

2 ANSWER AS TO SWAY AND CAKE LLC:

3 Sway and Cake is located at 1124 E. Pike Street. A preliminary estimate of damages for
4 that location and support for that has been produced at CHOP 0005395. The City has also deposed
5 Sway and Cake about that preliminary estimate.

ANSWER AS TO WADE BILLER:

8 Wade Biller is a resident of the Onyx Condominiums. Documentation of his personal out-
9 of-pocket damages has been produced at CHOP 0004968 – 0004975. In addition, Mr. Biller has
10 suffered emotional and physical distress.

DATED this 10th day of May, 2021.

CALFO EAKES LLP

By s Tyler S. Weaver

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CERTIFICATE OF SERVICE

I, Lixi Aylin Colmenero, declare that I am employed by the law firm of Calfo Eakes LLP, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On May 10, 2021, I caused a true and correct copy of the foregoing document to be served on counsel listed below in the manner indicated:

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s/ Lixi Aylin Colmenero

Lixi Aylin Colmenero

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